

From: Seth Oster/DC/USEPA/US
Sent: 12/6/2011 9:30:06 AM

To: Bob Sussman/DC/USEPA/US@EPA; alcantara.betsaida@epa.gov
CC:
Subject: Re: Draft Letter

Ex. 5 - Deliberative

----- Original Message -----

From: Seth Oster
Sent: 12/06/2011 09:28 AM EST
To: Bob Sussman
Subject: Re: Draft Letter

Ex. 5 - Deliberative

----- Original Message -----

From: Bob Sussman
Sent: 12/06/2011 09:26 AM EST
To: Seth Oster
Cc: Betsaida Alcantara
Subject: Re: Draft Letter

Ex. 5 - Deliberative

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

From: Seth Oster/DC/USEPA/US
To: Bob Sussman/DC/USEPA/US@EPA, Betsaida Alcantara/DC/USEPA/US@EPA
Date: 12/06/2011 09:24 AM
Subject: Re: Draft Letter

Ex. 5 - Deliberative

----- Original Message -----

From: Bob Sussman
Sent: 12/06/2011 09:13 AM EST
To: Betsaida Alcantara
Cc: Seth Oster
Subject: Re: Draft Letter

Ex. 5 - Deliberative

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

From: Betsaida Alcantara/DC/USEPA/US
To: Seth Oster/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA
Date: 12/06/2011 08:28 AM

Ex. 5 - Deliberative

From: Seth Oster
Sent: 12/06/2011 07:24 AM EST
To: Bob Sussman; "Betsaida Alcantara" <alcantara.betsaida@epa.gov>
Subject: Fw: Draft Letter

Ex. 5 - Deliberative

From: Josh Fox **Ex. 6 - Personal Privacy**
Sent: 12/06/2011 01:56 AM EST
To: Seth Oster
Subject: Draft Letter

Seth-

This has been a harrowing evening for me...sorry this is so late. I am open to any suggestions before tomorrow late morning. It will be posted online so I can make any corrections before any press hits on it if you have suggestions.

Thanks,
Josh

An Open Letter to EPA Administrator Lisa Jackson to Intervene in Dimock, PA because the State of Pennsylvania has Failed

By Josh Fox

Dear Administrator Jackson-

I am writing to you on behalf of all Pennsylvanians, appealing for your help in a matter of dire urgency.

Earlier this year, you gave me your word that you would apply federal EPA's might and enforcement capabilities when State governments were failing to protect citizens. I am writing to you to appeal for EPA's immediate intervention on behalf of families in Dimock, Pennsylvania who have been contaminated by Cabot Oil and Gas fracking activities. We urgently need EPA to step in and take over for Pennsylvania DEP and Governor Tom Corbett's abject failure to appropriately respond.

Before I go further into the details, I would like to thank you personally for all of your excellent work on fracking. The people of gas drilling areas have cried out for help and you and your EPA have come to their aid time and time again.

I am sincerely grateful for how responsive you have been to the nation's outcry for help in curtailing and researching the damage being done by fracking for natural gas. Under your leadership, EPA has truly been listening to the citizens' urgent complaints about fracking and fighting for environmental justice.

You heeded the citizens' call to investigate groundwater contamination in gas drilling areas and you initiated a careful and transparent 2 year groundwater study. We asked you to address the crisis of air pollution in gas drilling areas and to look into the extreme abuse and mishandling of toxic flowback wastewater from the fracking process and you have initiated the adoption of strong new rules in both categories.

When you sat down for an interview with me for Gasland 2 this year, I asked you to work with me and my staff as we identified cases that needed federal attention. My exhaustive (and exhausting!) 3 1/2 years of ongoing research into the catastrophe of gas fracking in the USA has brought me intimate knowledge of dozens of extreme cases of water contamination in gas fracking areas and the hints of information into hundreds if not thousands more cases in the US.

Today, I am asking you to pay attention to the water contamination cases of 11 families in the now infamous and beleaguered disaster area known as Dimock, PA.

Dimock was the first stop on my tour of gas drilling areas throughout the USA for my film, GASLAND in February 2009. It is just 60 miles from my home in Northeastern PA, an area which has also been leased in large part for fracking and drilling. When I first got to Dimock, I was in utter shock at the sheer destruction that had taken place in just a few months of drilling and fracking there. The town was swarming with gas drilling and fracking trucks from Halliburton and Cabot Oil and Gas and there was a palpable state of fear and dismay from the residents who had been overrun by a drilling industry that was running rampant over their previously beautiful and bucolic town.

Dimock first made the news when resident Linda Fiorentino's water well spontaneously exploded on New Years Day 2009, throwing the concrete well covering into the air and spreading debris throughout her yard. Many other cases of water contamination quickly followed: water with explosive levels of thermogenic natural gas, water which tested positive for industrial fracking chemicals, water that had turned black, water which made animals and residents sick after drinking. In a few short months of drilling, Dimock had become a disaster area, its residents shellshocked.

In those early days, most residents were very shy of the media and were afraid to speak out about what was happening to them. They are decent, hard working people, striving to maintain a middle class foothold and who are not the type of folks who go running to the nearest reporter or lawyer when something wrong happens to them. They gave the gas companies the benefit of the doubt, contacted them to try to help and, most importantly, sought help from the PA DEP to determine the problem. What happened after that is a disgrace to the state of Pennsylvania and to our nation.

Cabot Oil and Gas continually harassed the residents and denied any wrongdoing. They mounted a smear campaign against those complaining of water contamination and stirred up local resentment against the families, publishing full page ads in local papers claiming that the families whose water was contaminated were being dishonest.

In October 2010, PA DEP, under the auspices of then Governor Ed Rendell and Secretary John Hanger, determined that Cabot Oil and Gas had contaminated the residents water, and recommended that a municipal water line be built to serve the families. The water line would cost 12 million dollars. Pennsylvania stated it intended to sue Cabot Oil and Gas to pay for it. It was the intention of the designers of the water line within the Rendell Administration to create a policy precedent in Pennsylvania for fracking: contaminate water, pay for the restoration of clean water to residents. PA DEP also ruled that Cabot Oil and Gas had to supply replacement water to the families until the water line could be built.

Cabot Oil and Gas continued to deny that they had anything to do with the contamination and posed numerous challenges to the water line, effectively miring the solution in political controversy in the waning days of the Rendell Administration.

A few months later, Governor Tom Corbett took office, backed by 1.6 million dollars in campaign contributions from the gas industry, appointing Michael Krancer head of DEP. The permanent water line was cancelled, and the DEP stopped returning the families phone calls.

Up until November 30th Cabot Oil and Gas has been delivering bottled water and water for showering and cleaning to the families in large tanks (known as water buffaloes) to the families. But on November 30th the water stopped.

In spite of numerous contaminants in the water linked to fracking and in spite of continued high levels of methane in the water, Tom Corbett's PA DEP told Cabot that they no longer had to supply replacement water. Tom Corbett's administration, beyond all sanity, has determined that Cabot Oil and Gas has no more responsibility in this matter, leaving families on their own, without water. According to Tom Corbett's DEP, the water contamination just magically disappeared.

Tomorrow, along with Mark Ruffalo, RiverKeeper, NRDC, Frack Action, United for Action and a host of other groups, I am traveling to Dimock with a water truck from New York State to deliver clean water to the families.

We need EPA to step in. We need EPA to hold Cabot Oil and Gas accountable and continue the water delivery to Dimock. And we need EPA to join us in asking that Tom Corbett and PA DEP be investigated by the PA Inspector General for corruption and violation of the state constitution.

We would like to ask you to help bring the facts of this case to light and to aid in the following considerations:

- **Carter Road in Dimock should be considered a disaster area:** eleven families are without safe water to drink and living in hazardous conditions. The State of Pennsylvania and the gas company that caused the contamination should provide relief, but if they refuse, EPA should join with citizens and elected officials to get the job done, because it's the right thing to do.

- **The DEP determined in 2010 that Cabot Oil & Gas Corp's fracking activities were to blame** for severe water contamination and ordered that a water pipeline be constructed. But plans for the pipeline were later scrapped as the Corbett administration came into office.

- If this were a flood, a hurricane, or other natural disaster, there would be no question that victims deserve relief—but Mother Nature doesn't make campaign contributions. **The oil and gas industry, however, has spent \$747 million dollars on campaign cash and lobbying expenditures to influence Pennsylvania elected officials at the federal and state levels,** according to a recent report from Common Cause PA.

- **Governor Tom Corbett alone received \$1.6 million dollars in campaign contributions,** in what would be a violation of federal campaign donation limits.

- **The State of Pennsylvania has clearly failed its citizens, and put the profits of a powerful industry before the health and safety of ordinary people. The Pennsylvania Inspector General should investigate the DEP's failure to fulfill its regulatory responsibility, and look into possible undue influence of oil and gas interests with both the DEP and the Corbett administration.**

- **The United States Environmental Protection Agency should intervene in the case of Dimock, PA—and in Pennsylvania at large—in recognition of Pennsylvania's abdication of its regulatory duties and its failure to protect the rights of its citizens.**

- **This is exactly the type of State collusion, corruption and mismanagement that calls for you to stand behind your statement to**

Congress in May 2011, that "EPA will step in to protect local residents if a driller jeopardizes clean water and the state government does not act." In late November, Dimock resident Craig Sautner sought assistance from the DEP and was threatened with arrest, simply for calling to ask for help. The need for EPA intervention is indisputable and urgent.

- Local government officials in Dimock have acted in collusion with industry to deprive citizens of their rights, in clear violation of ethics laws. On Thursday December 2nd, Binghamton, NY Mayor Matt Ryan offered to deliver water to aide Dimock residents in need. But Dimock township supervisors denied assistance for the impacted residents, following a secret meeting between the supervisors, Cabot representatives, and members of a gas industry advocacy group. The meeting was an apparent violation of the Penn Sunshine Act.

DEP and Cabot have tested the water and say it's safe, but those assurances ignore several important facts:

- There are **exceedances of federal and/or state safe drinking water standards** for a number of contaminants in data from both Cabot's and DEP's tests, with heavy metals, methane gas, and radioactive material present, including: aluminum, iron, lead, manganese, toluene, barium, and beryllium.
- There are also **high levels of other contaminants** for which safe levels have not yet been established by EPA or DEP, but which are known to present possible health risks, including: naphthalene, phenanthrene, butyl benzyl phthalate, 1-methylnaphthalene, 2-methylnaphthalene, diethylene glycol, triethylene glycol, 2-methoxyethanol, Bis (2-Ethylhexyl) adipate, Bis (2-Ethylhexyl) phthalate, methylene blue active substances, gas range organics, acetone and ammonia. Although not presently regulated by the Environmental Protection Agency or the Pennsylvania Department of Environmental Protection and thus no MCLs exists, these chemicals are not safe for ingestion, in either the short or long term.
- Recently **Cabot improperly directed its testing lab to filter water samples** before testing, even though there are no filters in the families' homes of the sort used in the lab, and such filters probably could not be installed without clogging up their water systems. Unfiltered water samples show high levels of lead, iron and manganese. And even after filtering, there were exceedances of some contaminants, including manganese.
- In one home in which Cabot has installed a methane treatment system, **ethylene glycol was detected**. Ethylene glycol is commonly used as antifreeze in fracking fluids and is considered toxic.

Also, please speak to this apparent misstatement by EPA Region 3:

-Last week a public outreach staffer from EPA Region 3 emailed the Dimock families stating that water sampling data failed to show contaminant levels that would trigger emergency EPA intervention under the Safe Drinking Water Act. However, the decision by EPA Region 3 not to act was based on a partial review of data with no independent testing by EPA, using the data provided by Cabot and the DEP (flawed for the same reasons listed above).

I write this letter wishing that this case in Dimock was an aberration, an isolated case that bears no resemblance to others. However, this is not the case. There are hundreds if not thousands more Dimocks out there that will need EPAs attention in the future if fracking is not curtailed immediately and if there is no enforcement by the federal government in contamination cases.

We need you to show the strength and resolve that is your hallmark in this extremely important case and we will be happy to work with you to provide more information.

I would suggest that a thorough investigation take place, similar to the investigation in Pavillion, Wyoming that has been so rigorous and thorough. And I would suggest that the families immediately receive replacement water as is their right as Pennsylvanians and as Americans.

Again, I thank you for your leadership, your compassion and your clear and noble determination to fight for environmental justice. I hope to hear from you on this matter in the future.

Sincerely, respectfully and in support,
Josh Fox
Director, GASLAND
Milanville, PA

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Check out Josh's new video on the Delaware River Basin ACTION Nov 21st:

<http://vimeo.com/29952415>

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